



Home Office

# Adults at risk: Detention of potential or confirmed victims of modern slavery

Version 4.0

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# About this guidance

This guidance provides instructions to staff who are involved in making decisions about the immigration detention of adults considered to be potential or confirmed victims of modern slavery.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email Detention Policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **4.0**
- published for Home Office staff on **02 May 2024**

## Changes from last version of this guidance

Amended to reflect the transition of the Modern Slavery Needs Assessment templates to an internal Home Office system.

### Related content

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# Introduction

The purpose of this guidance is to provide instructions to Home Office staff who are involved in making decisions about the immigration detention of adults considered to be potential or confirmed victims of modern slavery.

For the purposes of this guidance, an individual who has received a positive Reasonable Grounds decision under the National Referral Mechanism (NRM) and has not yet received their Conclusive Grounds decision or otherwise left the NRM, is considered a potential victim of modern slavery. Where an individual receives a positive Conclusive Grounds decision, they are considered to be a confirmed victim of modern slavery.

Prior to 25 May 2021, the Adults at Risk in Immigration Detention (AAR) policy referred decision makers to the Modern Slavery: Statutory Guidance for England and Wales (under s49 of the MSA Act 2015) and Non-Statutory Guidance for Scotland and NI when making detention decisions for potential victims of modern slavery. From 25 May 2021, the decisions on the detention of individuals within this cohort have been brought fully within the scope of the AAR policy and decision makers should follow this guidance instead.

This guidance also sets out the process to be followed when making detention decisions for individuals who have received a Conclusive Grounds decision under the NRM.

The guidance also provides relevant process instructions where the case of a potential or confirmed victim of modern slavery has been referred to the Competent Authority for consideration under the Public Order Disqualification (POD), Additional Recovery Period (ARP) or Bad Faith policies.

This guidance supplements the Adults at risk in immigration detention guidance. Decision makers should refer to the Adults at risk in immigration detention guidance to identify whether an individual is considered an 'adult at risk' according to the indicators of risk set out in the policy.

Where an individual is considered a potential or confirmed victim of modern slavery, the information in this guidance applies to:

- all cases in which consideration is being given to detaining the individual in order to effect their return or deportation from the UK
- all cases in which the individual is already in detention. In these cases, the consideration will be about whether continued detention is appropriate

In all cases in which an individual is identified as an 'adult at risk' but has not received a positive Reasonable Grounds or Conclusive Grounds decision under the NRM, decision makers should follow the Adults at risk in immigration detention guidance.

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# What is modern slavery?

Modern slavery is a serious crime that violates human rights. Victims are forced, threatened or deceived into situations of subjugation, degradation and control which undermine their personal identity and sense of self.

Modern slavery encompasses human trafficking and slavery, servitude and forced or compulsory labour. Human trafficking consists of 3 basic components: action, means and purpose of exploitation. All 3 components must be present in cases of adult trafficking. In human trafficking cases, exploitation can take many forms, including sexual exploitation, forced labour, slavery, servitude, forced criminality and removal of organs. Some people may not be victims of human trafficking but may still be victims of modern slavery if they have been subject to slavery, servitude and forced or compulsory labour.

The [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the MSA Act 2015\)](#) and [Non-Statutory Guidance for Scotland and NI](#) sets out further detail on what modern slavery is and indicators that may suggest that a person may be a victim of modern slavery.

## The National Referral Mechanism and immigration detention

The National Referral Mechanism (NRM) is the framework for identifying and referring potential victims of modern slavery and ensuring they receive appropriate support. Individuals can be referred into the NRM by [First Responder Organisations](#). Individuals who require leave to remain in the United Kingdom but do not have it (and are therefore liable to detention under Immigration Act powers) can be referred into the NRM in a variety of circumstances, including whilst they are living in the community and whilst they are detained under Immigration Act powers.

Victims of modern slavery may have suffered acts of physical and/or psychological abuse and, by nature of their situation, may be reluctant to come forward or may not recognise themselves as victims. Home Office staff working in the detention system are provided with training and support to identify indicators of vulnerability and act upon these appropriately, including referring individuals into the NRM where this is appropriate.

Following referral from a First Responder Organisation, the relevant competent authority will make a Reasonable Grounds decision to determine whether they agree with the statement that there are reasonable grounds to believe, based on objective factors but falling short of conclusive proof, that a person is a victim of modern slavery (human trafficking or slavery, servitude, or forced or compulsory labour).

Where the relevant competent authority issues a positive Reasonable Grounds decision, the individual will be considered a potential victim of modern slavery from this point until the point at which the relevant competent authority issues a Conclusive Grounds decision, or the individual otherwise leaves the NRM. In some cases, individuals may be disqualified from the NRM on the grounds of bad faith.

This may occur after a Reasonable Grounds or Conclusive Grounds decision is made. An individual who is disqualified from the NRM on the grounds of bad faith will have their positive Reasonable or Conclusive Grounds decision revoked and will immediately cease to be considered a potential or confirmed victim of modern slavery for the purposes of the AAR policy.

Potential victims of modern slavery are considered adults at risk under the Adults at risk in immigration detention policy. The competent authority's positive Reasonable Grounds decision alone will automatically be regarded as amounting to level 2 evidence of this (see evidence levels). An individual who receives a negative Reasonable Grounds decision, or who is disqualified from the NRM on the grounds of bad faith, will not be regarded as an adult at risk under the Adults at risk in immigration detention policy unless one of the other indicators of risk set out in the policy applies.

Confirmed victims of modern slavery (those who have received a positive Conclusive Grounds decision under the NRM) are considered adults at risk under the Adults at risk in immigration detention policy. The competent authority's positive Conclusive Grounds decision alone will automatically be regarded as amounting to level 2 evidence of this (see evidence levels). An individual who receives a negative Conclusive Grounds decision, or who is disqualified from the NRM on the grounds of bad faith, will not be regarded as an adult at risk under the Adults at risk in immigration detention policy unless one of the other indicators of risk set out in the policy applies.

To understand the National Referral Mechanism process in full, including the roles and responsibilities of organisations who may encounter or are involved in supporting potential victims of modern slavery, see the [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the MSA Act 2015\) and Non-Statutory Guidance for Scotland and NI](#).

## **Related content**

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# Supporting potential victims in their recovery from modern slavery

Particular protections and support are afforded to potential victims of modern slavery in accordance with the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) as reflected in the [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the MSA Act 2015\) and Non-Statutory Guidance for Scotland and NI](#).

This includes a Recovery period of no less than 30 calendar days following a positive Reasonable Grounds decision, during which time potential victims of modern slavery are protected from removal or deportation from the United Kingdom and provided with support to assist in their physical, psychological and social recovery from their experience of modern slavery.

Caseworkers should be aware that in certain cases the relevant competent authority may decide for the Recovery period to not be observed, as set out in the [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the MSA Act 2015\) and Non-Statutory Guidance for Scotland and NI](#). Examples of this would be where the public order disqualification or bad faith provision has been applied or, in the case of an additional recovery period decision, where the presumption against an additional recovery period is upheld. In these cases, no entitlements associated with a recovery period will apply, including the following:

- (a) any prohibition on modern slavery grounds on removing the person from the UK or requiring them to leave; and
- (b) any requirement on modern slavery grounds to consider the person for temporary permission to stay in the United Kingdom; and
- (c) access to a recovery period or modern slavery specific assistance and support; and
- (d) where a Conclusive Grounds decision has not yet been made, a Conclusive Grounds decision will not be made.

## Assessing the recovery needs of a potential victim of modern slavery in immigration detention

### When to conduct a Modern Slavery Needs Assessment

Where an individual has received a positive Reasonable Grounds decision and continuing detention is being considered, a Modern Slavery Needs Assessment will be undertaken in order to identify the person's recovery needs arising from their experience of modern slavery and assess any support they may require. This assessment will be conducted in accordance with the process set out below.

It is important to note that certain Home Office policies may affect whether or when this Needs Assessment should be completed. For example, where the competent authority has identified that an individual falls under the ARP policy, the Needs



Assessment should not be commenced until and unless a decision to grant an additional recovery period had been made by that competent authority.

In a case where a disqualification request has been submitted to the Competent Authority as the individual meets the Public Order criteria set out in Section 63(3) of the Nationality and Borders Act 2022, the Needs Assessment should be initiated or continue as set out below, until and unless the individual is informed that they are being disqualified from protection following a public order determination. If an individual receives a public order disqualification, the Needs Assessment process may be terminated and/or support will no longer need to be provided for any identified needs related to the experience of modern slavery/trafficking.

## The Modern Slavery Needs Assessment

The Modern Slavery Needs Assessment is split into 3 parts:

1. First, an interview will take place with the individual to identify whether they have any specific recovery needs arising from their experience of modern slavery. This interview will be conducted by Detention Engagement Teams (DETs) for individuals in Immigration Removal Centres (IRCs) and Immigration Prison Teams (IPTs) for individuals in the prison estate. The template of this interview (AAR MS 001) can be found on Atlas.
2. Second, the individual will be referred to the relevant Healthcare provider for an assessment of any physical and mental health recovery needs. Following this assessment, Healthcare will advise on whether any identified needs can be met in the IRC or prison in which the individual is detained under immigration powers.
3. Finally, the information gathered in the first 2 stages will be conveyed to the responsible casework team and, taking all of this information into consideration, the responsible casework SEO will assess whether or not suitable assistance to support the individual in their recovery can be provided within detention (see [support available in immigration detention](#)).

The responsible casework SEO's assessment will result in one of these outcomes:

- where it is considered that appropriate services or facilities required to meet the individual's recovery needs are available in the IRC or prison in which they are detained, the individual's AAR level will remain at, at least, level 2 - this will remain the case even where the Recovery period has been withdrawn following a public order disqualification decision, as the fact that they have a positive RG decision will still qualify as AAR level 2, at least (the individual's AAR level may be higher than level 2 where other indicators of risk apply or where other evidence has been provided which amounts to level 3 evidence under the Adults at risk in immigration detention policy)
- where it is considered that any services or facilities required to meet the individual's recovery needs are not available in the IRC or prison in which they are detained or where these are considered to be unsuitable or insufficient, the AAR level must be increased to level 3 even where it is unclear that the absence of support would be likely to cause harm - where the Recovery period has been withdrawn following a public order disqualification decision, support

will no longer need to be provided for any identified recovery needs related to the experience of modern slavery (therefore, AAR level 3 will not apply to such individuals owing to the lack of support services or facilities that may have been identified through the Needs Assessment process prior to the public order disqualification)

**The recovery needs of a potential victim of modern slavery may change over time and will be kept under review.** If a caseworker, member of IRC or prison staff or the potential victim (and not their legal representative where one has been appointed) believes that their recovery needs may have changed, an additional Modern Slavery Needs Assessment can be requested. For example, a change in circumstances such as where an individual is moved from one place of detention to another should prompt an additional Modern Slavery Needs Assessment.

## Support available in immigration detention

The support a potential victim requires to assist them in their recovery from the experience of modern slavery will always be specific to their personal situation and experiences. Domestic case law (see [EM, R \(on the application of\) v The Secretary of State for the Home Department \[2018\] EWCA Civ 1070](#)) has demonstrated that appropriate support for potential victims of modern slavery can be provided in the detention setting. However, an individual's support needs should always be considered on a case-by-case basis. The paragraphs below set out the types of support available to individuals within the IRC and prison settings in accordance with the types of support listed in ECAT. This is not an exhaustive list.

### Accommodation

Accommodation provided in the IRCs and prisons is generally considered to be appropriate and secure. Home Office staff will however consider the specific needs of the individual to determine whether this is suitable on a case-by-case basis. For example, consideration should be given to whether an individual has been detained in conditions similar to an IRC or prison as part of their modern slavery experience and to ensuring that the individual is not at risk of sharing accommodation or being in proximity to any alleged perpetrators of modern slavery, where this is disclosed. Where the individual raises concerns about the suitability of their accommodation, the caseworker must liaise with the Detainee Monitoring and Population Management Unit (DEPMU) to ensure appropriate accommodation is provided.

### Material assistance

Where material needs are identified, provisions available in the IRC or prison should be utilised and will generally be sufficient to meet all essential living needs of victims of modern slavery. As set out in [DSO 06/2013](#), all individuals in IRCs have access to free hygiene packs and clothing if required.

## Translation and interpretation services

Translation and interpretation services are available in IRCs and prisons. As set out in [DSO 02/2022](#), IRC and prison staff should ensure the individual has access to translation or interpretation services, where a need for this service has been identified during the assessment process.

## Medical treatment, assistance and counselling

Primary physical and mental health care is provided by Healthcare services in IRCs and prisons. IRC and prison staff should follow existing procedures (see [DSO 09/2014](#) and [PSI 03/2013](#)) to ensure access to emergency medical treatment where this is required.

Support in accessing counselling is provided by Welfare Services in the IRCs (see [DSO 07/2013](#)). Individuals are signposted to welfare services on induction to an IRC. Where a need is identified, during the Modern Slavery Needs Interview, the relevant DET officer will signpost the individual to organisations who can provide counselling support.

## Information on rights and services

Staff should provide potential victims of modern slavery with information on their rights, entitlements and services available to them, where this is requested. This may include, where appropriate:

- healthcare services
- legal services
- assistance in criminal proceedings
- access to social, cultural and faith activities

Any victim of modern slavery can appoint their own legal representative where they can afford to do so. If a victim cannot afford a legal representative, they may be eligible for legal aid, or they can try to find a pro bono legal representative. Further details of eligibility for legal aid and the areas where legal aid may be available are set out in the [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the MSA Act 2015\)](#) and [Non-Statutory Guidance for Scotland and NI](#).

In addition, individuals in IRCs are eligible for a free 30-minute consultation via the Detained Duty Advice (DDA) scheme regardless of financial eligibility or the merits of their case. Individuals should be provided with a list of the DDA scheme duty solicitors where appropriate. An equivalent provision for a 30-minute consultation is also available for potential victims detained in prison.

## Assistance during criminal proceedings

Where applicable, the relevant caseworker must liaise with the police and the responsible prosecuting authority in order to ensure the individual's interests are represented adequately.

For further details of other assistance available to potential victims during criminal proceedings, including 'special measures' see [Modern Slavery: Statutory Guidance for England and Wales \(under s49 of the MSA Act 2015\) and Non-Statutory Guidance for Scotland and NI](#).

## Voluntary returns

Where potential victims express a desire to voluntarily leave the UK, staff should discuss this with them. For more information on voluntary returns see [Voluntary and assisted returns guidance](#).

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# Detention decisions for potential victims of modern slavery

There is a presumption in immigration policy that a person will not be detained. The Adults at risk in immigration detention policy strengthens this presumption against the detention of those who are particularly vulnerable to harm in detention. However, detention may still be appropriate in an individual case when immigration control considerations outweigh the presumption of release, even for a person considered to be at risk.

The Adults at risk in immigration detention guidance sets out a framework for making detention decisions for individuals considered to be adults at risk. This involves balancing evidence of vulnerability against immigration factors. **Each case must be assessed on the basis of the available facts and on its own merits.**

Detention decisions for potential victims of modern slavery are fully within the scope of the Adults at risk policy. However, to reflect the particular circumstances which apply to individuals in this cohort, there are additional factors to consider within the decision-making process, as set out below. The competing considerations must be carefully balanced, always bearing in mind the initial presumption.

For guidance on making detention decisions for confirmed victims of modern slavery, see After receipt of a Conclusive Grounds decision.

## Evidence of vulnerability

Any individual who is a potential victim of modern slavery is considered an adult at risk. A competent authority's positive Reasonable Grounds decision alone will automatically be regarded as amounting to level 2 evidence (see evidence levels). This will remain the case even in cases in which the competent authority subsequently applies a public order disqualification or decides not to grant an additional recovery period. However, if the competent authority decides to disqualify an individual from the NRM on the grounds of bad faith, the individual will no longer be considered a potential victim of modern slavery and will no longer engage the AAR policy (unless other indicators of risk are present).

Potential victims of modern slavery may also fall under other vulnerabilities outlined in the Adults at risk in immigration detention policy. Decision makers must consider all the indicators of risk and any evidence provided (for example from a social worker or medical practitioner) in line with the Adults at risk in immigration detention policy in order to determine the appropriate vulnerability level of the potential victim of modern slavery.

Additionally, where the Recovery period applies, the Home Office must take into consideration the outcome of the Modern Slavery Needs Assessment (see [assessing the recovery needs of a potential victim of modern slavery](#)).

- where it is considered that appropriate services or facilities required to meet the individual's recovery needs are available in the IRC or prison in which they are detained, the individual's **AAR level will nonetheless remain at, at least, level 2**
- where it is considered that the services or facilities required to meet the individual's recovery needs are not available in the IRC or prison in which they are detained or where these are considered to be unsuitable or insufficient, **the AAR level must be increased to level 3** even where it is unclear that the absence of support would be likely to cause harm.

Where the Recovery period has been withdrawn following a public order disqualification decision, support will no longer need to be provided for any identified recovery needs related to the experience of modern slavery. As such, AAR level 3 will not apply to a potential victim owing to a lack of support services or facilities that may have been identified through a Needs Assessment process completed, prior to a public order disqualification.

## Immigration factors

### Length of time in detention

Domestic case law (see [Singh, R V Governor of Durham Prison \[1983\] EWHC 1 \(QB\)](#)) is clear that the detention power can be exercised lawfully only for a reasonable period within which there is a realistic prospect of removal. This may be impacted by a number of factors. When making detention decisions for potential victims of modern slavery, decision makers should consider in particular:

- the Recovery period – this is the period from the date on which the relevant competent authority makes a positive Reasonable Grounds decision to the date on which either i) a Conclusive Grounds decision is made or ii) the individual otherwise leaves the NRM (including where they may be disqualified on the grounds of bad faith or public order) - there is a presumption against an additional recovery period for potential victims who have already benefitted from a recovery period, however a decision may be made to grant, if the competent authority considers it appropriate in the circumstances of a particular case - the Recovery period, where it applies, will be at least 30 calendar days and may be considerably longer
- whether the individual meets the Public Order criteria set out in Section 63(3) of the Nationality and Borders Act 2022, and a disqualification request has been or will be made to the relevant Competent Authority - in cases in which the public order disqualification is applied, the prohibition on removing the potential victim from the UK no longer applies - this may impact expected timescales for removal
- whether the individual is involved in police investigations which require the individual's presence in the United Kingdom – police investigations may result in bringing criminal proceedings against the perpetrators

## Public protection and compliance issues

As set out in the Adults at risk in immigration detention guidance, consideration should be given to whether the individual raises public protection concerns and an assessment made of the level of any public protection concerns. Consideration should also be given to the compliance record of the individual concerned in line with the indicators set out in the Adults at risk in immigration detention guidance.

When considering these issues in the case of a potential victim of modern slavery, caseworkers must be aware that the immigration history of the individual concerned, including past public protection issues and the compliance record of the individual, may have been influenced by their trafficking. Caseworkers should take this into account in decision making.

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# Roles and responsibilities in managing the detention of a potential victim of modern slavery

## For individuals being considered for detention by the Detention Gatekeeper

Where an individual to whom the Recovery period applies is referred to the Detention Gatekeeper either from the community or is being considered for immigration detention at the end of a custodial sentence, the Gatekeeper will, in addition to the established process for assessing immigration and vulnerability factors, consider the following:

- what, if any, support for recovery needs the potential victim of modern slavery has already been receiving
- if applicable, if there is suitable provision available for these recovery needs to be met in immigration detention within either an IRC or prison
- whether the individual will have additional recovery needs that only arise in the detention context
- if there is any indication, explicit or implied, that any public protection and/or negative immigration compliance issues may have arisen or been influenced by their modern slavery experiences and take this into account in detention decision making

If a decision is made that detention is still appropriate following the above considerations, then this must be reflected in any relevant reviews of detention and signed off by the Detention Gatekeeper Head of Unit (Grade 7). The Detention Gatekeeper should notify the caseworker that the individual must be referred for a Modern Slavery Needs Interview within 5 working days of arrival in an IRC or transfer into immigration detention within prison.

## For individuals detained in an Immigration Removal Centre

When an individual already detained within an IRC receives a positive Reasonable Grounds decision, the following process should be followed:

1. The caseworker must complete an ad-hoc detention and case progression review, and the evidence level automatically **raised to, at least, level 2**. Caseworkers must consider all the indicators of risk and any evidence provided (for example from a social worker or medical practitioner) in line with the Adults at risk in immigration detention policy in order to determine the appropriate vulnerability level of the potential victim of modern slavery and determine whether or not detention should be maintained.
2. Where release is recommended, the caseworker should plan to effect the safe release of the potential victim of modern slavery, including by making a referral



to The Salvation Army, where the potential victim of modern slavery gives their consent, for ongoing assessment of their recovery needs and to determine eligibility for MSVCC support. The Salvation Army will liaise with the case worker to ensure a smooth transition, this may include carrying out an initial Risk Assessment before they are released and putting a plan in place to manage any safeguarding risks upon release. Where consent is not given, the caseworker should refer to guidance on how to effect the safe release of detained individuals into the community, see [DSO 08/2016](#) and [DSO 01/2018](#).

The caseworker must be mindful not to release the potential victim of modern slavery back to the control of their potential trafficker particularly if the proposed release address is the place of encounter or their last known address. Caseworkers should also ensure that, where instructed, representatives are informed about release.

All steps taken to effect a safe release must be properly recorded on ATLAS.

3. If continuing detention is being considered, and the competent authority has not issued an additional recovery period notification letter, the caseworker should immediately refer the case to the relevant Detention Engagement Team (DET) who will conduct a Modern Slavery Needs Interview (see AAR MS 001 on Atlas), where the individual consents to this, **within 5 working days** of receiving the caseworker's referral where possible. The information gathered during the Modern Slavery Needs Interview should be provided to the relevant casework team.

In cases in which the competent authority has issued an additional recovery period notification letter, the needs assessment should not be completed (and thus, steps 3 to 9 are not applicable) until and unless a decision is made by the competent authority to grant an additional recovery period.

4. The DET officer will then refer the individual to Healthcare for an assessment of their physical and mental health needs, and whether these can be met in detention. The outcome of the healthcare assessment should be provided to the relevant casework team.
5. The responsible casework SEO (or higher) should then conduct an individualised assessment of whether the detained person's recovery needs can be met in detention. The assessment must take into consideration Healthcare's report and the provisions available to the potential victim of modern slavery to assist in their recovery whilst in detention. If the responsible casework SEO (or higher) assesses that the individual's needs cannot be sufficiently met, the AAR evidence level should be raised to level 3. The outcome of this assessment should be recorded via form AAR MS 002 on Atlas
6. The caseworker should then complete a detention and case progression review evidencing how the relevant immigration factors have been balanced against any identified vulnerabilities and support needs. **Each case must be**

**assessed on the basis of the available facts and on its own merits.** This review must be signed off by the responsible casework SEO (or higher).

7. Where release is recommended, the caseworker should follow the process set out in step 2. The caseworker should communicate the outcome of the Modern Slavery Needs Assessment to the individual via form AAR MS 003 on Atlas
8. Where detention is maintained, the caseworker must liaise with the DET officer to ensure that provision for the support needs that the individual has identified, in addition to the referrals made by the DET officer during the Modern Slavery Needs Interview, is in place. The caseworker should communicate the outcome of the Modern Slavery Needs Assessment to the individual via form AAR MS 003 on Atlas. Where a public order disqualification request has been made and that public order decision remains outstanding, the caseworker should also communicate the outcome of the Modern Slavery Needs Assessment to the relevant competent authority for their information.
9. If the caseworker, member of IRC staff or the potential victim (and not their legal representative where one has been appointed) believes that their recovery needs may have changed, the caseworker should arrange for an additional Modern Slavery Needs Assessment to be conducted.

## For individuals detained in a prison

When an individual, already detained in a prison under immigration powers, receives a positive Reasonable Grounds decision, the following process should be followed:

1. The caseworker must complete an ad-hoc detention and case progression review, and the evidence level automatically **raised to, at least, level 2**. Caseworkers must consider all the indicators of risk and any evidence provided (for example from a social worker or medical practitioner) in line with the Adults at risk in immigration detention policy in order to determine the appropriate vulnerability level of the potential victim of modern slavery and determine whether or not detention should be maintained.
2. In line with the [Detention: General Instructions](#), any decision to release a time served foreign national offender should be authorised at strategic director level.

Where release is authorised, the caseworker should plan to effect the safe release of the potential victim of modern slavery, including making a referral to The Salvation Army, where the potential victim of modern slavery gives their consent, for ongoing assessment of their recovery needs and to determine eligibility for MSVCC support. The Salvation Army will liaise with the case worker to ensure a smooth transition, this may include carrying out an initial Risk Assessment before they are released and putting a plan in place to manage any safeguarding risks upon release. Where consent is not given, the caseworker should refer to guidance on how to effect the safe release of detained individuals into the community, see [DSO 08/2016](#) and [DSO 01/2018](#).

The release of a foreign national offender needs careful consideration in line with licence conditions (where applicable) and published guidance. There may be actions that other agencies need to take to inform victims and ensure public protection. Liaison with the appropriate authorities is vital prior to release. The caseworker must be mindful not to release the potential victim of modern slavery back to the control of their trafficker particularly if the proposed release address is the place of encounter or their last known address. In all cases it is important to make sure that, where instructed, representatives are informed about release.

All steps taken to effect a safe release must be properly recorded on ATLAS.

3. If continuing detention is being considered, and the competent authority has not issued an additional recovery period notification letter, the caseworker should immediately refer the case to the relevant Immigration Prison Team (IPT) who will conduct a Modern Slavery Needs Interview (see AAR MS 001 on Atlas, where the individual consents to this, **within 5 working days** of receiving the caseworker's referral where possible. The interview should take place in person where possible, or by phone or video call where this is not possible. The information gathered during the Modern Slavery Needs Interview should be provided to the relevant casework team.

In cases in which the competent authority has issued an additional recovery period notification letter, the needs assessment does not need to be completed (and thus, steps 3 to 9 are not applicable) until and unless a decision is made to grant an additional recovery period.

4. In parallel to step 3, the caseworker should refer the individual to Healthcare for an assessment of their physical and mental health needs, and whether these can be met in detention. The outcome of the healthcare assessment should be provided to the relevant casework team.
5. The responsible casework SEO (or higher) should conduct an individualised assessment of whether the detained person's needs can be met in detention. The assessment must take into consideration Healthcare's report and the provisions available to the potential victim of modern slavery to assist in their recovery whilst in detention. If the responsible casework SEO (or higher) assesses that the individual's needs cannot be sufficiently met, the AAR evidence level should be raised to level 3. The outcome of this assessment should be recorded via form AAR MS 002 on Atlas.
6. The caseworker should then complete a detention and case progression review evidencing how the relevant immigration factors have been balanced against any identified vulnerabilities and support needs. **Each case must be assessed on the basis of the available facts and on its own merits.** This review must be signed off by the responsible casework SEO (or higher).
7. Where release is recommended, the caseworker should follow the process set out in step 2. The caseworker should communicate the outcome of the Modern Slavery Needs Assessment to the individual via form AAR MS 003 on Atlas.

8. Where detention is maintained, the caseworker must ensure that provision for the support needs that the individual has identified, in addition to the referrals made by the IPT officer during the Modern Slavery Needs Interview, is in place. The caseworker should communicate the outcome of the Modern Slavery Needs Assessment to the individual via form AAR MS 003 on Atlas. Where a public order disqualification request has been made and that public order decision remains outstanding, the caseworker should also communicate the outcome of the Modern Slavery Needs Assessment to the relevant competent authority for their information.
9. If the caseworker, member of prison staff or the potential victim (and not their legal representative where one has been appointed) believes that their recovery needs may have changed, the caseworker should arrange for an additional Modern Slavery Needs Assessment to be conducted.

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# After receipt of a Conclusive Grounds decision

## Negative Conclusive Grounds decision

Where the relevant competent authority makes a negative Conclusive Grounds decision, the individual will no longer be regarded as a potential victim of modern slavery (unless a reconsideration request is accepted – see below). The individual will therefore no longer fall within the scope of the Adults at risk in immigration detention policy as a potential victim of modern slavery. However, one of the other indicators of risk set out in the policy may apply.

Receipt of a negative Conclusive Grounds decision marks the end of the individual's protection under the NRM and, provided no other outstanding legal barriers exist, the Home Office can proceed with removal.

Where an individual requests reconsideration of a negative Conclusive Grounds decision, for the purposes of this policy they should be regarded as a potential victim of modern slavery again from the point at which the requestor is notified that the decision will be reconsidered. In cases in which the competent authority informs the requestor that the decision will not be reconsidered, the individual will not be regarded as a potential victim of modern slavery and will not fall within the scope of the Adults at risk in immigration detention policy (unless one of the other indicators of risk set out in the policy applies).

## Positive Conclusive Grounds decision

Where the relevant competent authority makes a positive Conclusive Grounds decision, the individual should continue to be regarded as an adult at risk under the Adults at risk in immigration detention policy. The competent authority's positive Conclusive Grounds decision alone will automatically be regarded as amounting to Level 2 evidence (see evidence levels). This will remain the case even if the competent authority subsequently applies the public order disqualification. However, the level 2 evidence resulting from a positive Conclusive Grounds decision will no longer be applicable if the competent authority revokes the Conclusive Grounds decision on the grounds of bad faith.

Where an individual receives a positive Conclusive Grounds decision and has not received a public order disqualification or had that Conclusive Grounds decision revoked on the grounds of bad faith, they will automatically be considered for a grant of Temporary Permission to Stay in the United Kingdom. Full guidance on when Temporary Permission to Stay will be granted to victims of modern slavery is contained in [Temporary Permission to Stay for victims of modern slavery](#).

Where Temporary Permission to Stay is not granted and no further outstanding legal barriers exist, the Home Office can proceed with removal. The competent authority's positive Conclusive Grounds decision should be regarded as amounting to level 2

evidence (see evidence levels) for any further time the individual remains in detention, unless the decision is revoked on the grounds of bad faith.

Where Temporary Permission to Stay is granted after a positive Conclusive Grounds decision, the individual should be released. In line with published guidance, the caseworker should plan to effect the safe release of the individual, including by making a referral to The Salvation Army, where the individual gives their consent, for assessment of their recovery needs and to determine eligibility for support. Where consent is not given, the caseworker should refer to guidance on how to effect the safe release of detained individuals into the community, see [DSO 08/2016](#) and [DSO 01/2018](#).

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